

Rural Utilities Service, USDA

§ 1786.205

RUS mortgage means collectively those mortgages and security agreements made by and between the borrower and the Government, securing indebtedness evidencing electric and telephone loans or loan guarantees made pursuant to RE Act. The term includes such mortgages regardless whether third parties are mortgagees with RUS.

Supplemental lender means a private lender whose loan to the borrower is secured under an RUS mortgage.

Telephone loan means a loan made by FFB and guaranteed by RUS under section 306 of the RE Act for telephone service.

(b) *Rules of construction.* Unless the context shall otherwise indicate, the terms defined in paragraph (a) of this section include the plural as well as the singular, and the singular as well as the plural. The words “herein,” “hereof” and “hereunder”, and words of similar import, refer to this subpart as a whole.

[58 FR 51008, Sept. 30, 1993, as amended at 59 FR 66440, Dec. 27, 1994]

§ 1786.202 Prepayment and refinancing of RUS guaranteed FFB loans.

The borrower of an electric or telephone loan made by the FFB and guaranteed by RUS under section 306 of the RE Act may, at the option of the borrower, refinance or prepay a loan or an advance on the loan, or any portion of the loan or advance in accordance with section 306C of the RE Act, after meeting certain conditions using the procedures prescribed in the note. After refinancing existing notes under this section, additional prepayments or refinancings will be governed by the terms of the refinancing note(s).

§ 1786.203 Special considerations.

Generally all FFB borrowers with loans guaranteed by RUS whose FFB notes have not been accelerated are eligible to prepay or refinance under this part. All requests for prepayment or refinancing will be processed in accordance with this subpart except that some requests for refinancing and prepayments are more complicated and thus will involve special considerations. These requests will have to be

handled on a case by case basis and include:

(a) Telephone borrowers who are required to meet certain terms of their indenture;

(b) Borrowers who have amended their old form note or have already repriced prior to September 30, 1993;

(c) Borrowers that have been involved in a merger or consolidation;

(d) Borrowers whose obligations to RUS, FFB notes, or security instruments differ from those normally used;

(e) A request to prepay or refinance an amount of less than \$100,000 or an amount of less than the full amount of an advance outstanding; or

(f) A request to prepay or refinance a note that includes unadvanced loan funds.

§ 1786.204 Limitations.

(a) No more than three refinancing notes will be executed for any borrower per calendar year.

(b) The borrower may not select a term for the refinanced advance that ends after the maturity date set for that advance.

§ 1786.205 Application procedure.

(a) Any borrower seeking to prepay or refinance an advance from the FFB under this subpart should apply by letter to the appropriate RUS Regional Director or, in the case of power supply borrowers, to the Director of the Power Supply Division. The borrower will be required to submit applications and elections in a digital format to be supplied by RUS. The application letter shall provide the following:

(1) Borrower's RUS designation;

(2) Borrower's name and address;

(3) Listing of each note to be prepaid by loan designation, RUS note number, RUS account number, advance date, maturity date, original amount, outstanding balance, and date(s) of any substitute FFB note(s) amending the original FFB Note;

(4) A statement of the borrower's intention to finance the premium by an addition to principal balance or to pay the premium in cash or with unsecured debt;

(5) A statement of the maturity options that the borrower wishes to select;

(6) Such additional information as the Administrator may request.

(b) Requests for refinancing or prepayment will ordinarily be processed in the order that they are received. Borrower's may withdraw an application by notifying the appropriate RUS office in which they filed the application.

(c) When the request for prepayment or refinancing is approved for processing the borrower will be provided with appropriate instructions, documents and forms which may include but are not limited to the following:

- (1) An FFB refinancing note;
- (2) Resolution of Board of Directors;
- (3) Legal Opinion;
- (4) Certificate of Secretary;
- (5) Waiver of Notice;
- (6) Notice to borrower electing an effective date other than a scheduled quarterly payment date (if applicable);
- (7) Documentation of obligations secured pursuant to section 1786.208 if any; and
- (8) Security instrument.

(Approved by the Office of Management and Budget under control number 0572–0032)

§ 1786.206 Refinancing note.

(a) RUS will issue a replacement guaranty for refinancing notes delivered to FFB to replace and substitute for existing FFB notes in connection with any refinancing by FFB pursuant to section 306C of the RE Act.

(b) Generally, refinancing notes will, to the extent practicable, consolidate all of a borrower's existing FFB notes which have been guaranteed by RUS and containing terms and conditions as FFB may require and RUS and the borrower may accept.

(c) Notwithstanding any contrary provision contained in this subpart, RUS will give preference to processing refinancings that utilize a generic form of refinancing note in the event that FFB prescribes one.

[58 FR 51008, Sep. 30, 1993; 58 FR 58729, Nov. 3, 1993]

§ 1786.207 Prepayment premium.

(a) A premium shall be assessed against a borrower that refinances or prepays a loan or loan advance, or any portion of a loan or advance, under this section. RUS will collect the prepay-

ment premium as calculated by FFB. FFB will calculate this premium as described in this section. Except as provided in paragraph (b) of this section, the premium shall be equal to the lesser of:

(1) The difference between the outstanding principal balance of the loan being refinanced and the present value of the loan discounted at a rate equal to the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the loan being refinanced or prepaid;

(2) 100 percent of the amount of interest for 1 year on the outstanding principal balance of the loan or loan advance, or any portion of the loan or advance, being refinanced, multiplied by the ratio that:

(i) The number of quarterly payment dates between the date of the refinancing or prepayment and the maturity date for the loan advance; bears to

(ii) The number of quarterly payment dates between the first quarterly payment date that occurs 12 years after the end of the year in which the amount being refinanced was advanced and the maturity date of the loan advance; and

(3)(i) The present value of 100 percent of the amount of interest for 1 year on the outstanding principal balance of the loan or loan advance, or any portion of the loan or advance, being refinanced or prepaid; plus

(ii) For the interval between the date of the refinancing or prepayment and the first quarterly payment date that occurs 12 years after the end of the year in which the amount being refinanced or prepaid was advanced, the present value of the difference between:

(A) Each payment scheduled for the interval on the loan amount being refinanced or prepaid; and

(B) The payment amounts that would be required during the interval on the amounts being refinanced or prepaid if the interest rate on the loan were equal to the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the loan being refinanced or prepaid.

(b)(1) Except as provided in paragraph (b)(2) of this section, the premium provided by paragraph (a)(1) of